



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2021-0393; FRL-9756-02-R10]

Air Plan Approval; OR; Vehicle Inspection Program and Medford-Ashland PM₁₀ Maintenance Plan Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Oregon state implementation plan (SIP) submitted by the State of Oregon (Oregon) on December 9, 2020 and December 22, 2021. The revisions update the SIP-approved vehicle inspection program for the Portland and Medford areas. The EPA is approving the SIP submittal as consistent with Clean Air Act (Act or CAA) requirements.

Additionally, the EPA is making a technical correction to the Medford-Ashland particulate matter (PM₁₀) maintenance plan that incorrectly identified a street-sweeping commitment as a transportation control measure (TCM).

DATES: This action is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2021-0393. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional

availability information.

FOR FURTHER INFORMATION CONTACT: Claudia Vaupel, (206) 553-6121, vaupel.claudia@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

I. Background

On May 11, 2022, EPA proposed to approve Oregon’s SIP revision for the vehicle inspection program (VIP) in the Portland and Medford areas (87 FR 28783). The SIP revision updates the rules to improve clarity, add requirements for the onboard diagnostics system, and remove references to the enhanced dynamometer test that is no longer required as of January 1, 2007.¹ EPA also proposed to correct the nomenclature used to describe the street sweeping commitment in the Medford-Ashland SIP as a TCM. EPA clarified that the street sweeping commitment is not a TCM, within the meaning of 40 CFR 93.101, and further clarified that Oregon is not obliged to treat the street sweeping commitment in its SIP as a TCM. An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA’s reasons for approval were provided in the notice of proposed rulemaking. The public comment period for this proposed rulemaking closed on June 10, 2022. The EPA received no comments during the public comment period.

II. Final Action

The EPA is approving the SIP revision submitted by Oregon on December 9, 2020 and December 22, 2021. We are approving the following rule amendments (state effective November 19, 2020): OAR 340-256-0010, -0100, -0130, -0200, -0300, -0310, -0330, -0340, -0355, -0356, -0370, -0380, -0390, -0400, -0420, -0440, -0450, -0465, -0470, -0350 (repeal), -0410 (repeal), -0460 (repeal). The EPA is also correcting the

¹ The EPA approved phasing out the enhanced test on December 19, 2011. (*See* 76 FR 78571).

nomenclature in the Medford-Ashland PM₁₀ maintenance plan used to describe the street sweeping control measure as a TCM.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of certain provisions and removing certain provisions from incorporation by reference, as described in sections I and II of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number

of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 30, 2022.

Casey Sixkiller,
Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart MM—Oregon

2. In § 52.1970, amend Table 2 in paragraph (c) by revising the entries for “256-0010”, “256-0130”, and “256-200” and under the heading “Emission Control System Inspection” entries “256-0300” through “256-0470” to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)¹

State citation	Title/subject	State effective date	EPA approval date	Explanations
CHAPTER 340—DEPARTMENT OF ENVIRONMENTAL QUALITY				
*	*	*	*	*
Division 256—Motor Vehicles				
256-0010	Definitions	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Visible Emissions				
*	*	*	*	*
256-0130	Motor Vehicle Fleet Operation	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	

Certification of Pollution Control Systems				
256-0200	County Designations	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Emission Control System Inspection				
256-0300	Scope	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0310	Government-Owned Vehicle, Permanent Fleet Vehicle and United States Government Vehicle Testing Requirements	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0330	Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0340	Light Duty Motor Vehicle and Heavy Duty Gasoline Motor Vehicle Emission Control Test Method for Basic Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0355	Emissions Control Test Method for OBD Test Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0356	Emissions Control Test Method for On-Site Vehicle Testing for Automobile Dealerships	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0370	Renewal of Registration for Light Duty Motor Vehicles and Heavy Duty Gasoline Motor Vehicles Temporarily Operating Outside of Oregon	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0380	Light Duty Motor Vehicle Emission Control Test Criteria for Basic Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	

256-0390	Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0400	Light Duty Motor Vehicle Emission Control Standards for Basic Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0420	Heavy-Duty Gasoline Motor Vehicle Emission Control Standards	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0440	Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0450	Gas Analytical System Licensing Criteria for Basic Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0465	Test Equipment Licensing Criteria for OBD Test Program	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
256-0470	Agreement With Independent Contractor; Qualifications of Contractor; Agreement Provisions	11/19/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				

1. The EPA approves the requirements in Table 2 of this paragraph (c) only to the extent they apply to (1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and (2) any additional pollutants that are required to be regulated under Part C of Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

* * * * *